

**FILED**  
Clerk  
District Court

**JUN - 8 2007**

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

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*Attorney for Defendant*

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE**

**NORTHERN MARIANA ISLANDS**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**ARMAN ABBOT REDOR.**

**Defendant.**

**CRIMINAL CASE NO. 07-00016**

**MOTION TO COMPEL  
DISCOVERY**

**Trial Date: July 2, 2007**

**Time : 9:00 a.m.**

**Judge : Hon. Alex R. Munson**

**MOTION FOR DISCOVERY**

**COMES NOW**, Defendant, Arman Abbot Redor, by and through undersigned counsel, and respectfully request an order requiring the United States Attorney to provide the discovery listed below by a date certain established by this Court. This Motion is brought pursuant to Rule 16 of the Federal Rules of Criminal Procedure, the Due Process Clause of the CNMI Constitution and United States Constitution, and the accompanying memorandum of points and authorities.

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION**

Under Rule 12(b) of the Federal Rules of Criminal Procedure, a party must file a motion for discovery, otherwise the failure to file such motion may constitute a waiver under Rule 12 (e). In addition to the items specifically addressed below, this motion seeks to compel the United States to

1 produce any evidence that it intends to use at trial that is subject to discovery under Rule 16. F.R.Cr.  
2 P. Rule 12(b)(4)(B).

3 The rules of criminal procedure and the due process clause of the United States Constitution,  
4 require that a prosecutor must make an effort to obtain discoverable information for the defense that is  
5 in the possession, custody, or control of other governmental agencies acting on the prosecutor's behalf.  
6 Prosecutors must exercise due diligence to determine the existence of such material and have an  
7 additional obligation to learn of favorable information in the possession of others. *Kyles v. Whitley*,  
8 115 S. Ct. 1769 (1995)

9  
10 Defendant requests production or disclosure of the following items for purposes of discovery:

11 1. The Defendant's Statement.

12 Under F.R.Cr. P. 16(a)(1)(A) and (B), the defendant is entitled to disclosure of all  
13 copies of any written or recorded statement made by the defendant; the substance of any statements  
14 made by the defendant which the government intends to offer in evidence at trial; any response by the  
15 defendant to interrogation; the substance of any oral statements contained in the handwritten notes of  
16 the government agents; any response to any Miranda Warnings which may have been given to the  
17 defendant (See *U.S. v. McElroy*, 697 F. 2d 459 (2<sup>nd</sup> Cir. 1982); and any other statements by the  
18 defendant that are discoverable under F.R.Cr. P. 16 (a)(1)(A),(B).

19 2. Arrest, Reports, Notes, and Dispatch Tapes.

20 The defendant also requests that all arrest reports, notes and dispatch or any other tapes  
21 that relate to the circumstances surrounding his arrest or any questioning, if such reports have not  
22 already been produced in their entirety, be turned over to him. This request includes, but is not limited  
23 to, any rough notes, records, reports, transcripts or other documents in which statements of the  
24 defendant or any other discoverable material is contained. This is all discoverable under *Brady v.*  
25 *Maryland*, 373 U.S. 83 (1963). See also *U.S. v. Johnson*, 525 F. 2d 999 (2<sup>nd</sup> Cir. 1975); *U.S. B. Lewis*,  
511 F. 2d 798 (D.C. Cir. 1975); *U.S. V. Pilnick*, 267 F. Supp. 791 (S.D.N. Y. 1967); *Loux v. U.S.* 389

1 F. 2d 911 (9<sup>th</sup> Cir. 1968). Arrest reports, investigator's notes memos from arresting officers, dispatch  
2 tapes, sworn statements, and prosecution reports pertaining to the defendant are available under F. R.  
3 Cr. P. 16(a)(1)(B).

4 3. Reports of Scientific Test or Examinations.

5 Pursuant to F.R.Cr. P. 16 (a)(1)(F), defendant requests the reports of all test and  
6 examinations conducted upon the evidence in this case, including but not limited to any fingerprint  
7 analysis and substance identification chemical testing that is within the possession, custody, or control  
8 of the government, the existence of which is known, or by the exercise of due diligence may become  
9 known, to the attorney for the government, and which are material to the preparation of the defense of  
10 which are intended for use by the government as evidence in chief at trial.

11 4. Brady Material.

12 The defendant requests all document, statement, agent's report, and tangible evidence  
13 favorable to the defendant on the issue of guilt and/or which affects the credibility of the government's  
14 case. Impeachment as well as exculpatory evidence falls within Brady's definition of evidence  
15 favorable to the accused. U.S. v. Bagley, 473 U.S. 667 (1985); U.S. v. Agurs, 427 U.S. 97 (1976).  
16 This request specially includes any information about out-of-control identification of defendant by  
17 recipient witnesses to this offence that may cast doubt on their reliability.

18 5. Evidence Seized

19 Evidence seized as a result of any search, either warrantless or with warrant is  
20 discoverable under F.R.Cr. P 16(a)(1)(C).

21 6. Request for Preservation of Evidence.

22 The defendant requests that all dispatch tapes, or any other physical evidence that may  
23 be destroyed, lost, or otherwise put out of the possession, custody, or care of the government and  
24 which relate to the arrest of the events leading to the arrest in this case be preserved. This request  
25 includes, but not limited to, any samples used to run any scientific tests and evidence seized from any  
third party. It is requested that the government question all the agencies and individuals involved in

the prosecution and investigation of this case to determine if such evidence exists, and if it does exist, to inform those parties to preserve any such evidence.

7. Tangible Objects.

The defendant request, under F.R.Cr. P. 16 (a)(1)(E), the opportunity to inspect and copy as well as test, if necessary, all physical evidence, other documents and tangible objects, including photographs of building or place or copies of portions thereof which are material to the defense or intended for use in the government's case in chief, or were obtained from or belong to the defendant.

8. Evidence of Bias or Motive to Lie.

The defendant requests any evidence that any prospective government witness is biased or prejudiced against that defendant, or has a motive to falsify or distort his or her testimony. *Pennsylvania v. Ritchie*, 480 U.S. 39 (1987); *U.S. V. Strifler*, 851 F. 2d 1197 (9<sup>th</sup> Cir. 1988).

9. Impeachment Evidence.

The defendant requests any evidence that any prospective government witness has engaged in any criminal act, whether or not resulting in a conviction, and whether any witness has made a statement favorable to the defendant. Such evidence is discoverable under *Brady v. Maryland*, see also *U.S. v. Strifler*, 851 F. 2d 1197 (9<sup>th</sup> Cir. 1988) (witness prior record); *Thomas v. U.S.*, 343 F. 2d 49 (9<sup>th</sup> Cir. 1965) (evidence that detracts from a witness' credibility).

10. Evidence of Criminal Investigation of any Government Witness.

The defendant requests any evidence that any prospective witness is under investigation by federal, state, or local authorities for any criminal conduct. *U.S. v. Chitty*, 760 F. 2d 425 (2<sup>nd</sup> Cir. 1985)

11. Evidence Affecting Perception, Recollection, Ability to Communicate, or Truth Telling.

The defendant requests that any evidence, including any medical or psychiatrist report or evaluation, tending to show that any prospective witness' ability to perceive, remember,

1 communicate, or tell the truth is impaired; and any evidence that a witness had use narcotics or other  
2 controlled substance, or has ever been an alcoholic. *U.S. v. Strifler*, 851 F. 2d 1197 (9<sup>th</sup> Cir. 1988);  
3 *Chavis v. North Carolina*, 637 F. 2d 213, 224 (4<sup>th</sup> Cir. 1980).

4 12. Name of Witness(es) Favorable to the Defendant.

5 The defendant requests the name of any witness who made any favorable statement  
6 concerning the defendant. *Jackson v. Weinwright*, 390 F. 2d 288 (5<sup>th</sup> Cir. 1968); *Chavis v. North*  
7 *Carolina*, 637 F. 2d 213, 233 (4<sup>th</sup> Cir. 1980); *Jones v. Jago*, 575 F. 2d 1164, 1168 (6<sup>th</sup> Cir. 1978);  
8 *Hudson v. Blackburn*, 601 F. 2d 785 (5<sup>th</sup> Cir. 1979).

9 13. Statements Relevant to the Defense.

10 The defendant requests disclosure of any statement that may be relevant to any possible  
11 defense or contention that he might assert. *U.S. v. Bailleaux*, 685 F. 2d 1105 (9<sup>th</sup> Cir. 1982). This  
12 includes any statements made by percipient witnesses about identification of the perpetrators of this  
13 offense in general and about the defendant Redor in particular.

14 14. Jencks Act Material

15 The defendant requests all material to which defendant is entitled pursuant to the Jencks  
16 Act, 18 U.S.C. § 3500. Defendant Redor specifically requests pretrial production of these statements  
17 and statements that fall within the definition of Rule 12.2 of the F.R.Cr, P. so that the court may avoid  
18 unnecessary recesses and delays for defense counsel for properly use any Jencks statements and  
19 prepare for cross- examination.

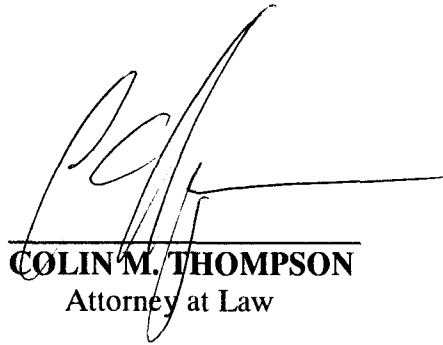
20 15. Giglio Information.

21 Pursuant to *Giglio v. U.S.* 405 U.S. 150 (1972), the defendant requests production of all  
22 statements and promises made to any government witnesses, in exchange for their testimony in this  
23 case, and all other information which could arguably be used for the impeachment of any government  
24 witnesses.  
25

**CONCLUSION**

Based upon the foregoing points and authorities, Defendant requests that the Court grant the motion for discovery and issue an order requiring production of discoverable materials within the possession of the government.

Respectfully submitted this 8th day of June 2007



**COLIN M. THOMPSON**  
Attorney at Law